

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 MITCHELL KEITH GOODRUM,

Case No. 3:20-cv-00185-RFB-WGC

4 Plaintiff,

ORDER

5 v.

6 STATE OF NEVADA, et al.,

7 Defendants.

8
9 I. DISCUSSION

10 This action began with an incomplete application to proceed *in forma pauperis* filed
 11 by an incarcerated individual. (ECF No. 1.) On March 24, 2020, the Court sent Plaintiff
 12 an order noting that he had not filed a complaint and that his application to proceed *in*
 13 *forma pauperis* was incomplete. (ECF No. 3.) The Court ordered Plaintiff to file an
 14 application to proceed *in forma pauperis* and a complaint within 60 days and warned
 15 Plaintiff that failure to timely comply with the order may result in dismissal of this action.
 16 (*Id.*) Although Plaintiff filed a new application to proceed *in forma pauperis*, suggesting
 17 that he received and understood the Court's order, he did not file a complaint. On June
 18 23, 2020, almost three months after the Court's order, the Court dismissed this case in
 19 its entirety without prejudice due to Plaintiff's failure to file a complaint. (ECF No. 4.)

20 Plaintiff has now filed another application to proceed *in forma pauperis* (ECF No.
 21 10) and a complaint titled "First Amended Complaint" (ECF No. 9). Plaintiff attached a
 22 cover letter to the complaint, and the cover letter states that he mailed his complaint to
 23 his 85-year old mother on June 1, 2020¹, expecting her to make copies and then send
 24 his complaint on to the court. (ECF No. 9-1.) But his mother became ill, passed away,
 25 and was not able to forward the complaint. (*Id.*) Plaintiff asks that the Court accept his
 26 filings, but also states that the Court should check cases 3:20-cv-00173-MMD-WGC and

27
 28 ¹ The Court notes that June 1, 2020, was already past the Court's deadline for Plaintiff to file a complaint in this action.

1 3:20-cv-00185-RFB-WGC for his previous filings. (*Id.*)
2

3 Based on Plaintiff's cover letter, apparently referencing this action's case number,
4 3:20-cv-00185-RFB-WGC, as a separate case, it appears that Plaintiff intended to pursue
5 his claims in a new action. However, because Plaintiff included this action's case number
6 with his filings, the new complaint and application to proceed *in forma pauperis* were filed
7 in this case, rather than in a new action. Because this case has been closed, the Court
8 denies Plaintiff's application to proceed *in forma pauperis* (ECF No. 10) as moot.
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10 Because Plaintiff's filings were not entirely clear, the Court reiterates that this
11 action was dismissed without prejudice. As such, Plaintiff is free to pursue his claims in
12 a new action by filing a complaint and an application to proceed *in forma pauperis* in a
13 new action. If Plaintiff chooses to pursue his claims in a new action, he should file a
14 complaint and an application to proceed *in forma pauperis* without referencing the case
15 number from this action.
16

17 **II. CONCLUSION**
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19 For the foregoing reasons, it is ordered that Plaintiff's application to proceed *in*
20 *forma pauperis* (ECF No. 10.) is denied as moot.
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22 It is further ordered that the Clerk of the Court send Plaintiff the approved form for
23 filing a § 1983 complaint, instructions for the same, and a copy of complaint (ECF No. 9),
24 as well as the approved form application to proceed *in forma pauperis* by an inmate, the
25 document entitled information and instructions for filing an *in forma pauperis* application,
26 and a copy of his motion to proceed *in forma pauperis* (ECF No. 10).
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28 DATED THIS 11th day of August 2020.
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31 UNITED STATES MAGISTRATE JUDGE
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